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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,806	04/21/2004	Julia Edgerton Simons	0324.0001C	7257
7590	09/15/2006			EXAMINER PLUMMER, ELIZABETH A
Ira C. Edell Edell, Shapiro & Finn, LLC Suite 400 1901 Research Blvd. Rockville, MD 20850-3164			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/828,806	SIMONS, JULIA EDGERTON
Examiner	Elizabeth A. Plummer	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 04 April 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-22 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 04 April 2004 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/29/2005, 4/21/2004  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

This is a first Office action on the merits for application serial number 10/828,806 filed 4/21/2004. Claims 1-22 are pending.

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 21a (Fig. 11). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 23 has been renumbered 22.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 13-15, 19-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cross (US Patent 5,598,880).

a. Regarding claims 1, 2, 13 and 19, Cross discloses a trim member of a soft fabric top treatment (12) having an elongated border constructed of a supple material, with a aesthetic and decorative front side (column 1, lines 5-15). The opposite backside has a releasable fastener in the form of loops (38) that are matable with complementary releasable fasteners in the form of hooks (28) in order to attach the treatment (12) to the architectural structural panels (18,20).

b. Regarding claims 3 and 4, pleating tape (36) is substantially continuous along the length of the border. Alternatively, when the pleats are drawn together, the loops (38) of the fasteners are drawn together such that a substantially continuous line or strip of loops is formed along the backside of the treatment 12 (column 4, lines 55-61; Fig. 3).

c. Regarding claim 5, the soft treatment (12) is of a fabric material (abstract).

- d. Regarding claims 6 and 20, the fabric soft treatment (12) is shown conforming to a corner formed by substantially planar surfaces intersecting at substantially ninety degrees (Fig. 1, 5).
- e. Regarding claims 14 and 15, when the pleats are drawn together, the loops (38) of the fasteners are drawn together such that a substantially continuous line or strip of loops is formed along the backside of the treatment 12 (Fig. 3). In addition, a plurality of discrete fasteners of hooks (58) can be used. (Fig. 5).
- f. Regarding claim 22, Cross discloses a trim member of a soft fabric top treatment (12) having an elongated border constructed of a supple material, with a aesthetic and decorative front side (column 1, lines 5-15). The opposite backside has a releasable fastener in the form of loops (38) that are matable with complementary releasable fasteners in the form of hooks (58) in order to attach the treatment (12) to the architectural structural panels (18,20) (Fig. 5).

***Claim Rejections - 35 USC § 103***

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 6. Claims 7-11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (US Patent 5,980,880).

a. Regarding claims 7-10, Cross discloses the claimed invention except for the specification of bend radius. It would have been a matter of obvious design choice to one of ordinary skill in the art at the same time the invention was made to form the soft treatment (12) with a bend radius of either one inch, one-half inch, or one-quarter inch, as Cross is concerned with flexibility and creating aesthetically pleasing designs.

b. Regarding claim 11, Cross discloses the claimed invention except the treatment (12) being made of acetate, vinyl, paper, acrylic, silk, lace or felt. It would have been a matter of obvious design choice to form the treatment out of one of these materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ.

c. Regarding claim 17, Cross does not additionally disclose the wall fasteners including an internal opening for admitting passage of a mechanical fastener. However, it is well known in the art that a fastener with an integral hole, such as a predrilled hole, can be used. Therefore it would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to use wall fasteners including an internal opening for admitting passage of a mechanical fastener, in order to make the fastener easier to install.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (US Patent 5,980,880) in view of Seavey (US Patent 511,971). While Cross discloses a treatment (12) that can be used to decorate a room, the treatment does not

compromise a plurality of overlapping layers. However, it is notoriously well known in the molding art that three-dimensional effects on molding are a desired alternative to flat designs. For example, Seavey discloses an architectural decorative border that is made up of layers of paper (page 1, lines 40-65; Fig. 1). It would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to comprise a treatment (12) with a plurality of layers, such as taught by Seavey, in order to create a more decorative and pleasing border.

8. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (US Patent 5,980,880) in view of Hanson et al. (US Patent 4,845,910). While Cross discloses a plurality of discrete fasteners, the fasteners do not have a pressure sensitive adhesive backing covered by a release sheet. However, it is notoriously well known in the art that fasteners, particularly hook and loop fasteners, can have a pressure sensitive adhesive backing covered by a release sheet. For example, Hanson et al. discloses loop tape (24) that has a side of loops (25) and a backing of adhesive material in the form of a pressure sensitive coating (26) that is protected by a peel off release strip (27) (column 3, lines 45-55). It would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to comprise a fasteners with a pressure sensitive adhesive with a release sheet, such as taught by Hanson et al., in order to create an easier to install invention and simplify assembly.

9. Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (US Patent 5,980,880) in view of McGowen (US Patent 5,918,435). While

Cross discloses a treatment (12) that is releasably attached to the wall, Cross not disclose two distinct treatments or molding strips. However, it is well known in the art that an advantage of a removable decoration are that the design possibilities are limited only by the decorators imagination. For example, McGowen discloses multiple trim borders (Figs. 8,9) that can easily be interchanged without damage or mess. Therefore it would have been obvious to one of ordinary skill at the same time the invention was made to modify Cross to include multiple trims, such as taught by McGowen, in order to increase the number of decorating possibilities. Cross teaches that a consumer can mix and match colors, fabrics and styles (column 6, lines 5-15).

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EAP  
EAP

Robert Canfield  
Primary Examiner

